

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

This Document Relates to Plaintiff:

STACY MILLER
2:17-cv-00395-DGC

**PLAINTIFF’S UNOPPOSED MOTION TO
SUBSTITUTE PARTY AND MOTION FOR LEAVE TO AMEND COMPLAINT**

Counsel, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, moves this Court for an Order substituting Ashley Marshall on behalf of her deceased mother, Stacy Miller.

1. Stacy Miller filed a products liability lawsuit against Defendants on February 7, 2017, in the United States District Court of Arizona.

2. On November 17, 2017, Plaintiff’s counsel filed and served a Notice of Suggestion of Death [Doc. 8857].

3. Ashley Marshall, a surviving daughter of Stacy Miller, is a proper party to substitute for Plaintiff-decedent Stacy Miller and has proper capacity forward with the surviving products liability lawsuit on her behalf, pursuant to Fed. R. Civ. P. 25(a)(1). “If a party dies and the claim is not extinguished, the Court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative.”

4. Ashley Marshall further seeks leave to file the attached Short Form Complaint to substitute herself as Plaintiff on behalf of Plaintiff-decedent Stacy Miller and to add survival action claims. Stacy Miller did not pass away until after the original filing of her Complaint, and therefore, the survival action claims could not be made until this time. (*see* Amended Short Form Complaint, attached hereto as Exhibit “A”).

5. Plaintiff's counsel has conferred with Defendants' counsel and Defendants do not oppose the filing of this motion.

Based on the foregoing, Ashley Marshall requests that this Court grant her request for substitution as Plaintiff in this action and for leave to file the Amended Short Form Complaint and direct the Clerk to file the attached Short Form Complaint.

Dated: April 26, 2018

/s/ Ben C. Martin

Ben C. Martin

Thomas Wm. Arbon

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2018, I electronically transmitted the attached document to the Clerk's Office and on counsel of record using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Ben C. Martin

Ben C. Martin